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Letter dated 8 June 2004 from Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached third report from Djibouti submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Alexander V. **Konuzin**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

[Original: French]

Note verbale dated 7 June 2004 from the Permanent Mission of Djibouti to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Republic of Djibouti to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and has the honour to transmit herewith, the third report of Djibouti (second supplementary report) on the implementation of the provisions of Security Council resolution 1373 (2001) on counter-terrorism (see enclosure).

Enclosure

Subparagraph 1 (a):

1.2 In compliance with this subparagraph, Member States are required to take steps to suppress the financing of terrorism. The CTC would be grateful if Djibouti could please explain the legal provisions in its current penal laws, which enable it to take action against persons, and entities that finance terrorist activities either inside or outside Djibouti. If such provisions do not exist, please indicate what steps Djibouti proposes taking in this regard.

1.2 The Penal Code of Djibouti contains provisions defining terrorism and prescribing sanctions against the perpetrators of such acts and everything relating thereto (see articles 167 and 168 of the Penal Code). It should, however, be noted that a reform is planned with a view to updating and modernizing the texts. Part of this exercise will focus on refining the definition of terrorism and improving the suppression of all related activities, particularly in the light of international conventions and experience gained. The Act on Money Laundering is a fundamental text which will serve as a basis for the planned updating exercise.

Subparagraph 1 (c):

1.3 What legal provisions and procedures exist to freeze the funds, other financial assets or economic resources of alleged terrorists who are present either in the territory of Djibouti or abroad?

1.4 It is to be noted here that funds, financial assets and economic resources connected with terrorism that require to be frozen may be of legal origin and need not represent the proceeds of any crime. Could funds held by non-residents in Djibouti and suspected of having terrorist links be frozen at the request of another State?

1.3 and 1.4 The Act on Money Laundering contains provisions relating to conversion or transfer with a view to hiding or concealing the illicit origin of funds or assistance to any person involved in terrorist activities as well as any participation by association, agreement or complicity in aiding or abetting such activities. Such funds can be frozen if proof exists that they could be used to finance terrorist activities.

- Money launderers and their co-perpetrators or accomplices are liable to prison sentences ranging from 5 to 10 years and a fine up to as much as 10 times the amount of the money laundered
- Attempted money laundering is subject to the same punishment as the crime itself
- The presiding judge may issue an order for the confiscation of the property of the users or beneficiaries if:
  - (1) it is proven that funds of lawful origin are being used for terrorist purposes;
  - (2) the perpetrators of the actions which generated those funds are unknown, dead or cannot be prosecuted.

Under article 5 (1) (1) of the Act on Money Laundering, on the confiscation of and international cooperation with regard to ill-gotten gains, the authorities of the Republic of Djibouti have committed themselves to the broadest possible

cooperation with those of other States in information sharing, investigations and proceedings, focusing on precautionary measures and the confiscation of money laundering-related instruments and products, for the purpose of mutual assistance as well as extradition.

Subparagraph 1 (d):

1.5 Does Djibouti have any provision for regulating alternative remittance systems and informal banking networks (e.g. Hawala)? Please outline such provisions.

1.5 Alternative remittance systems and informal networks (such as hawala) are governed by the provisions of article 2 (2) (9) of the Act on Money Laundering.

1.6 Are there any other special laws and practical controls and surveillance measures, in addition to the Djibouti Money Laundering Act, which exist so as to ensure that funds and other economic resources collected for religious, charitable or cultural purposes are not diverted for other purposes, particularly for financing terrorism?

1.6 In the territory of the Republic of Djibouti, there are no organizations of the type described in subparagraph 1 (d) raising funds to finance their activities. There are, however, foreign charitable associations which use funds raised abroad to help the people of Djibouti and Somalia. Fund transfers are subject to control only under the provisions of the Act on Money Laundering.

Subparagraph 2 (a):

1.7 Please outline the measures, both legislative and practical, preventing entities and individuals from recruiting, collecting funds or soliciting other forms of support for terrorist activities to be carried out inside or outside Djibouti, including, in particular:

1. the carrying out, within or from Djibouti, of recruiting, collecting of funds and soliciting of other forms of support from other countries; and

2. deceptive activities such as recruitment based on a representation to the recruit that the purpose of the recruitment is one (e.g. teaching) different from the true purpose and collection of funds through front organizations.

1.7 The reference is to terrorist practices that may conceivably or actually be experienced in our time regarding recruitment, the collecting of funds, fraudulent activities and operations carried out through terrorist organizations.

The Committee wishes to know whether practical and legislative measures have been taken to forestall or to punish such activities. The fact is that to date Djibouti has not experienced such situations. It, therefore, has no specific measures for punishing these activities.

1.8 Subparagraph 2 (a) also calls for the elimination of the supply of weapons to terrorists. Please provide the CTC with an outline of the Djibouti legislation relating to the regulation of the manufacture, sale, possession, storage and transport of weapons and explosives in Djibouti.

1.9 Is there a special license system employed in your country for individuals to purchase firearms and/or their components?

1.10 Please outline the conditions an individual has to meet under Djibouti legislation to entitle him to purchase firearms.

1.11 What type(s) of firearms may an individual possess? How many firearms of a particular type may an individual possess? Are there any exceptions in that regard?

1.12 Are there specialized shops designated to trade in firearms in your country?

1.13 Is the export, import and manufacture of firearms subject to a licensing system? If yes, please describe the relevant measures on this point.

1.14 Is it necessary to lodge, register or check the Goods Declaration and supporting documentation concerning firearms prior to their import, export or transit?

1.15 Are there appropriate mechanisms in place to verify the authenticity of licenses and other official documents in relation to the import, export or transit of firearms?

1.16 Has Djibouti implemented, using risk assessment principles, appropriate security measures concerning the import, export and transit movement of firearms? In that context, does Djibouti conduct security checks on the temporary storage, warehousing and transportation of firearms? Does Djibouti require persons involved in these operations to undergo security vetting?

1.8 to 1.16 Act No. 62-0621 of 2 June 1962 specifies the rules for importing, selling, transferring, transporting, bearing, owning and exporting weapons, armaments, ammunition and war materiel in the Republic of Djibouti.

Except under specified and limited conditions, the import, sale, transfer, transport, bearing, ownership and export of weapons, armaments, ammunition and war materiel are prohibited.

Only State establishments may manufacture, convert or adapt weapons, armaments, ammunition and war materiel.

It is forbidden to convert regulation weapons and ammunition into prohibited weapons and other articles.

Any infringement of the provisions of this Act is punishable by imprisonment ranging from one to five years and a fine ranging from 36,000 Djibouti francs to 3.6 million Djibouti francs, the confiscation of the weapons impounded and a prohibition of residence for a maximum period of five years.

If the offender has previously been sentenced for a crime or an offence leading to imprisonment, the length of imprisonment will range from 3 to 10 years.

The provisions of this Act do not apply to:

(a) Weapons, ammunition and other war materiel intended for the State armed forces;

(b) Weapons and ammunition transported by persons serving in these forces and required for the performance of their duties.

Decree No. 64-0407 of 5 May issued in implementation of Act No. 62-627 of 2 June 1962 specifies the procedure for authorizing the import, export, storage in a

customs warehouse, sale, transfer, transport, ownership and bearing of weapons, ammunition and armaments. It also specifies the authorities empowered to issue licences for the sale, import, transport, bearing and ownership as well as the modalities and conditions under which licences for the import, transfer, sale, bearing and ownership of weapons, armaments, ammunition and war materiel are obtained.

The licence for importing or exporting the aforementioned items must specify the identity of the importer or exporter, the categories of the items as well as the lawful reason for their import or export.

Such items may enter the country only at points designated by decree. In the absence of an import licence, the items must be stored by the importer or the consignee in an administrative warehouse under the exclusive guard and constant control of the State services.

Items may be removed from the warehouse only in accordance with a licence to import, bear or own them. If a licence is denied, the importer or consignee must send the items back at his own expense under the supervision and control of the State services which monitor their shipment.

Holders of import licences for sales must submit to the administration a detailed list of buyers accompanied by purchasing licences, the destination, the date of the permit to bear and own arms, and the status of stocks and establish the tally with the quantities remaining in storage.

The ownership or bearing of weapons is authorized on an individual, personal and exceptional basis. The authorization is attested through the issuance of a corresponding permit and a copy of the counterfoil register indicating the identity of the holder, and the brand name and manufacture number of the weapon or, if not available, the number imprinted on it.

The permit holder is obliged to present it at any time for inspection upon demand by the administration.

Licences may be revoked for reasons of public order or the safety of individuals by the licensing authority. Weapons may be sold or transferred only to persons or corporate bodies duly authorized in advance to own, carry or export them.

Any infringement of the provisions of this decree and other regulatory texts adopted for their enforcement are punished in accordance with the sanctions provided for under article 7 of the aforementioned Act No. 62-0621 of 2 June 1962.

Subparagraph 2 (b):

1.17 Please describe the mechanism established to provide early warning to other States in case of anticipated terrorist activity.

1.17 The security services of Djibouti are in constant contact with those of neighbouring countries including Yemen, Eritrea, the Sudan, the United Arab Emirates, Ethiopia, Egypt and Saudi Arabia. We regularly share information with their security services and armed forces on anything that might help to identify suspects, whether individuals or domestic or foreign groups, and possibly thwart their activities. We monitor and report on the movements of such persons and organizations.

Within the context of international cooperation, Djibouti works with the Joint Combined Task Force directed by the United States chief of staff and the European alliance forces composed of German, French and Spanish troops. Their activities are coordinated by the Horn of Africa headquarters, which includes Yemen on an exceptional basis. They are under the direction of a United States general linked to the Tampa headquarters in Florida. Their missions are to monitor the airspace and neighbouring seas and the movement of any craft using those transport corridors. The Djibouti police and Army work in close collaboration with these forces.

Subparagraph 2 (d):

1.18 The CTC notes that Djibouti is a party to the Arab Convention for the Suppression of Terrorism of 1998. Please describe the legal and other measures adopted in Djibouti to prevent the use of its territory for financing, planning, facilitating or commission of terrorist acts outside of Djibouti.

1.18 To date, we have not translated into domestic law the provisions of the Arab Convention for the Suppression of Terrorism, but have taken measures to prevent and combat any terrorist acts both with our own means and within the context of international cooperation. The forces present in our territory operate in this capacity within our country and the surrounding region.

Subparagraph 2 (e):

1.19 What is the competence of the courts in Djibouti to deal with criminal acts of the following kinds:

- **An act committed outside Djibouti by a citizen or by a person who is habitually a resident of Djibouti (whether that person is present or not);**
- **An act committed outside Djibouti by a foreign national who is currently in Djibouti;**
- **The CTC would be grateful if Djibouti could indicate the penalties for serious terrorist acts currently provided for in the Djibouti Criminal Code.**

1.19 The criminal law of Djibouti applies to any crime committed by a Djibouti national outside the territory of the Republic. It can be applied to offences committed by a national of Djibouti outside the country if the acts are punishable under the laws of the country in which they were committed.

Djibouti criminal law does not focus on acts perpetrated by foreigners abroad except for particular laws and international treaties such as the Rome Treaty on the International Criminal Court and when a Djibouti national is the victim of such acts.

The criminal law of Djibouti applies to offences committed on board ships flying the Djibouti flag and on board aircraft registered in Djibouti wherever they may be.

The penalties for serious terrorist acts are life imprisonment for acts committed with malice aforethought.

Sentences of imprisonment incurred for offences constituting terrorist acts are increased for such acts as deliberate attempted homicide, the hijacking of aircraft, ships or other means of transport and vandalism. In such cases, the sentence is

increased to imprisonment for life when the offence is punishable by a 20-year sentence, for 20 years when it is punishable by a 15-year sentence and for 15 years when punishable by a 10-year sentence.

Subparagraph 2 (f):

1.20 The CTC is pleased to note that Djibouti indicated that it is cooperating with regional police and border organizations. Could Djibouti please describe the procedures to provide assistance to other countries in criminal investigations or criminal proceedings relating to terrorism? Is a bilateral or multilateral treaty or some other legal instrument required?

1.20 The Republic of Djibouti provides aid and assistance upon request, for investigations, the service of writs, the enforcement of judicial decisions, letters rogatory and extradition, either to States with which it has concluded judicial agreements or to other States in accordance with the principle of reciprocity.

The Republic of Djibouti has concluded treaties on mutual legal assistance with France, Ethiopia and Yemen.

Subparagraph 2 (g):

1.21 Could Djibouti provide the CTC with an outline of its border controls, aimed at preventing the movement of terrorists?

1.21 The National Army and the police control the border traffic and monitor any activity involving a terrorist threat, interrogate all suspects and bring them before the competent authorities. It should be noted that these forces have the list of suspects.

1.22 The CTC would be grateful for an outline of the methods used by Djibouti to compare lists of terrorists and terrorist organizations designated by the United Nations, Interpol or other countries against its immigration and customs records, its registries of ships and other state records.

1.22 We receive the lists of terrorists sent to us by the United Nations, more particularly the Security Council Committee established pursuant to resolution 1267 (1999) and from time to time by Interpol. We systematically forward these lists to the immigration police so that they can make a comparison and update their own lists and take action if necessary.

Subparagraph 3 (d):

1.23 Djibouti has indicated that it is a party to some of the treaties mentioned in the resolution (but not to all). In this regard, the Committee would like specific information on the enactment and implementation in Djibouti law of the conventions and protocols related to the prevention and suppression of international terrorism already ratified by Djibouti. The Committee would also like to receive an update on the conventions and protocols which Djibouti plans to ratify in order to comply with the resolution.

1.23 Just as with the Arab Convention, Djibouti has not, to date, incorporated into domestic law the provisions of the conventions and protocols specified in the resolution.

Regarding the update on the remaining conventions and protocols not ratified to date, we should like to inform you that the Government of Djibouti, at a special session of the National Assembly held on 10 March 2004, ratified eight conventions and protocols. The instruments of accession to them were deposited with the United Nations Secretariat on 1 June 2004.

The conventions and protocols in question are:

1. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons including Diplomatic Agents,
2. International Convention against the Taking of Hostages,
3. Convention on the Physical Protection of Nuclear Material,
4. Convention on the Marking of Plastic Explosives for the Purpose of Identification,
5. International Convention for the Suppression of Terrorist Bombings,
6. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation,
7. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation,
8. Protocol, to the aforementioned Convention for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf.

Paragraph 4:

1.24 In its report, Djibouti indicates that it is aware of the strong links between organized crime and terrorism. Does Djibouti intend ratifying the United Nations Convention against Transnational Organized Crime?

1.24 Djibouti participated in the Algiers Ministerial Conference on the Promotion of the United Nations Convention against Transnational Organized Crime held in October 2002. On that occasion, Djibouti gave a comprehensive response to the questionnaire that it had received. Our Government is interested in acceding to the Convention and will do so as soon as the opportunity arises.

1.25 Could Djibouti please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the resolution.

1.25 There is no single organizational chart for all the Government departments. They are placed, in accordance with their specialization, under the authority of a minister. Their activities are centralized under the executive branch of government.

International standards

1.26 The CTC is aware that Djibouti may have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organizations involved in monitoring international standards. The CTC would be content to receive a copy of any such report or questionnaire as part of Djibouti's response to these matters as well as details of any efforts to

implement international best practices, codes and standards which are relevant to the implementation of resolution 1373.

1.26 Djibouti has not prepared any such reports.